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APPLICANT: Miraj Mostafa   CONF. NO.:   7123

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P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF

(37 C.F.R. §1.192)

This is an appeal from the final rejection of the claims mailed on 13 September 2006. A Notice of Appeal was mailed on 13 December 2006 with a Pre-Appeal Brief Request for Review. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed on 1 August 2007.

[1] REAL PARTY IN INTEREST

Nokia Corporation

Espoo, Finland.

[2] RELATED APPEAL AND INTERFERENCES

There are no related appeals or interferences

[3] STATUS OF CLAIMS

Claims 1-20 are cancelled.

Claims 21-59 are rejected under 35 USC 103(a) as being unpatentable over Luzeski et al. (US 6,470,177, "Luzeski") in view of Parasnis et al (US 6,728,753, "Parasnis") and Broussard (US 6,269,483).

Claims 21-59 are the subject of this appeal.

[4] STATUS OF AMENDMENTS

There were no amendments filed after Final Rejection.

[5] SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 21 is directed to a wireless multimedia messaging method as described, for example, on page 15, lines 10-22 in combination with Figure 2 of the present specification, that includes receiving by a messaging server, shown as an MMSC, content including a streamable media component, shown as the Phase 1 Media upload 26. The method also includes receiving information describing the streamable media component shown as the MMS notification 26. The method continues with sending the information describing the streamable media component from the messaging server MMSC to a recipient wireless terminal 24 shown as the MMS notification 27.

As described, for example, on page 15, lines 24-31 in combination with Figure 2, the method also includes forming a streaming session between the messaging server MMSC and the recipient wireless terminal 24, shown as the Phase 3 Media download 27, using the information describing the streamable media component, shown as the MMS notification 27, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal, as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 37 describes a messaging server MMSC accessible to a plurality of terminals 24 as shown in Figure 2 and described on page 15, lines 10-31. The server includes means (Media server 22 and MMS server 23) for receiving content including a streamable media component and information describing the streamable media component, and means (MMS server 23) for sending the information describing the streamable media component from the messaging server MMSC to a recipient wireless terminal 24. The server also includes means (Media server 22) for forming a streaming session with the recipient wireless terminal, using the information describing the streamable

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media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal, as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 45 describes a system comprising a plurality of terminals including a recipient wireless terminal 24 and a messaging server MMSC as described in the specification, for example, on page 15, lines 10-31 and as shown in Figure 2. The message server MMSC has means for receiving content (Media server 22, page 15, lines 10-12, and MMS server 23, page 15, lines 14-22) including a streamable media component and information describing the streamable media component, means (MMS server 23) for sending the information describing the streamable media component from the messaging server MMSC to the recipient wireless terminal 24, and means (Media server 22) for forming a streaming session with the recipient wireless terminal 24, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 47 is directed to a computer readable medium encoded with a computer program (see for example, page 11, lines 7-19 of the specification) which when executed by a messaging server (MMSC Figure 2) causes the messaging server to do the following as described in the specification, for example, on page 15, lines 10-22 in combination with Figure 2: receive content including a streamable media component, shown as the Phase 1 Media upload 26 and information describing the streamable media component, shown as the MMS notification 26; and send the information describing the streamable media component, shown as the MMS notification 27, to a recipient wireless terminal 24. As described, for example, on page 15, lines 24-31 of the specification in

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combination with Figure 2, the messaging server MMSC also forms a streaming session between the messaging server MMSC and the recipient wireless terminal 24, shown as the Phase 3 Media download 27, using the information describing the streamable media component shown as the the MMS notification 27, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal, as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 48 describes a wireless messaging device as described, for example, on page 22, line 17 through page 23, line 2 and as shown in Figure 5, including means (transceiver 52, page 22 lines 19-20) for, as described for example, on page 15, lines 10-31, receiving wirelessly information describing a message intended for the wireless messaging device from a messaging server MMSC, the message including a streamable media component (Phase 3 media download 27, Figure 2) and the information describing the message including information describing the streamable media component (MMS notification 27, Figure 2); and means (transceiver 52, DSP 53, memory 56, CPU 55, described, for example, on page 22, lines 17-27) for forming a streaming session with the messaging server MMSC for receiving the streamable media component using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 55 describes a method for multimedia messaging in a wireless messaging device as described in the specification, for example, on page 15, lines 10-31, in combination with Figure 2, including receiving wirelessly information (Phase media download and MMS notification 27) describing a message intended for the wireless messaging device 24 from a messaging

server MMSC, the message including a streamable media component (Phase 3 media download 27) and the information describing the message including information describing the streamable media component (MMS notification 27); forming a streaming session with the messaging server MMSC for receiving the streamable media component using the information describing the streamable component; and presenting the streamable media component during the streaming session, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component as described, for example, on page 4, lines 13-18 of the specification.

Independent claim 59 describes a computer readable medium encoded with a computer program (for example, as described on page 11, lines 7-19 of the specification) which when executed by a wireless messaging device, for example, as described on page 22, lines 17-27 of the specification, causes the wireless messaging device to: wirelessly receive information describing a message intended for the wireless messaging device from a messaging server MMSC, as described, for example, on page 15, lines 10-22 of the specification in combination with Figure 2, the message including a streamable media component (Phase 3 media download 27, Figure 2) and the information describing the message including information describing the streamable media component (MMS notification 27, Figure 2); form a streaming session (Phase 3 media download 27, Figure 2) with the messaging server MMSC for receiving the streamable media component (Phase 3 media download 27, Figure 2) using the information describing the streamable component (MMS notification 27, Figure 2); and present the streamable media component during the streaming session, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component as described, for example, on page 4, lines 13-18 of the specification.

[6] GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of claims 21-59 under 35 USC 103(a) as being unpatentable over Luzeski in view of Parasnis and Broussard is presented for review.

[7] ARGUMENT

The combination of Luzeski, Parasnis, and Broussard fails to disclose or suggest:

> receiving by a messaging server content including a streamable media component and information describing the streamable media component;

> sending information describing a streamable media component, and

> forming a streaming session using the information describing the streamable media component,

> where the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal,

all as recited by claim 21.

1.   On page 4, lines 9-12 of the 13 September 2006 Action, the Examiner correctly points out that Luzeski fails to disclose that the streamable media component is constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal.

Because the streamable media component is explicitly defined as being presentable to a recipient while being transmitted, and Luzeski fails to disclose such a streamable component, Luzeski cannot disclose or suggest receiving by a messaging server content including a streamable media component and information describing the streamable media component, as recited by claim 21.

Because the streamable media component is explicitly defined as being presentable to a recipient while being transmitted, and Luzeski fails to disclose such a streamable component, Luzeski cannot disclose sending information describing such a streamable media component, as recited by claim 21.

Page 3, lines 3-5 of the 13 September 2006 Final Action states that Luzeski does not explicitly teach forming a streaming session using information describing the streamable media component, as recited by claim 21.

2.   Page 2, paragraph 5a of the 13 September 2006 Final Action states that Luzeski teaches receiving by a messaging server content including a streamable media component and information describing the streamable media component in the abstract, column 5, lines 47-52 and in Fig. 1. Applicant respectfully disagrees.

The abstract describes a messaging system that provides email, voicemail, and fax mail services. Subscribers use the Internet and a web browser to access an inbox that displays all the email, voicemail and fax mail messages, and to read email and fax mail, or listen to voicemail. There is nothing in the abstract related to a streamable media component, as defined by the claims and nothing about information describing the streamable media component.

Column 5, lines 47-52 describe receiving and managing content and information from content providers. However, there is nothing in this section, or anywhere else in Luzeski related to a streamble media component, constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal.

3.   Page 2, paragraph 5a of the 13 September 2006 Final Action also states that Luzeski teaches sending information describing a streamable media component in column 11, lines 35-39 and column 20, lines 7-29. Applicant respectfully disagrees.

Column 11, lines 35-39 describe returning message header fields, message body and attachment details to a caller. Column 20, lines 7-29 describe a "View Inbox" transaction flow that presents a message header list to a subscriber. There is nothing in these sections related to sending information describing a streamable

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media component constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal.

Page 10, paragraph 7(A) of the 13 September 2006 Final Action states that while Luzeski does not teach streaming the streamable media component, Luzeski does teach receiving the streamable media component. Applicant disagrees because the streamable media component is explicitly defined in the claims as being constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal. While Luzeski mentions "streaming" of voice and fax data into and out of a voice/fax Store 10-9, Luzeski's definition of streaming is different from the definition in the present claims. Luzeski clearly teaches away from Applicant's definition in column 21, lines 8-12 where Luzeski explicitly states that "After all the segments are received, the plug-in plays the voice data." Thus, according to Luzeski, a plug-in reproduces data at the receiver end only after complete reception of the entire message. After the receiving user has clicked, for example, a voice message to open it, only after all segments of the voice mail have been transferred will the plug-in in the receiving end play back the voice mail.

In contrast, the present claims explicitly define a streamable media component as constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device. There is no disclosure related to such a component in Luzeski.

4.   Parasnis fails to disclose or suggest the features missing from Luzeski. As stated on page 10, paragraph 7(A) of the 13 September 2006 Final Action the Examiner provides Parasnis to supply "presenting the streamable media component to the recipient while it is still being transmitted." However, Applicant submits that Parasnis fails to disclose or suggest receiving by a messaging server content including a streamable media component and information

describing the streamable media component. Parasnis does not receive a streamable component as defined by the claims, but encodes a set of slides into an advanced server file stream format only during presentation. There is no disclosure related to receiving a streamable media component and information describing the streamable media component at a messaging server.

Parasnis also fails to disclose or suggest sending information describing a streamable media component. Applicant finds no disclosure in Parasnis related to this feature.

Applicant also finds no disclosure in Parasnis related to forming a streaming session using the information describing the streamable media component. Neither reference discloses such information, and Parasnis does not disclose forming a streaming session using such information.

5.   Broussard fails to disclose or suggest the features missing from Luzeski and Parasnis. Broussard describes limiting the transmission of high bandwidth data when a video conference participant is no longer speaking.
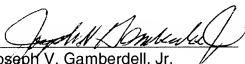
There is nothing in Broussard related to receiving by a messaging server content including a streamable media component and information describing the streamable media component, sending information describing a streamable media component, and forming a streaming session using the information describing the streamable media component, where the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal.

Applicant respectfully submits that because the combination of Luzeski, Parasnis, and Broussard fails to disclose or suggest all the features of claim 21, claim 21 and claims 22-36 are patentable over the cited combination.

Independent claims 37, 45, 47, 48, 55, and 59 are directed to similar subject matter and are patentable over the combination of Luzeski, Parasnis, and Broussard for the same reasons as claim 21. Claims 38-44, 46, 49-54, and 56-58 are patentable because of their dependencies.

The Commissioner is hereby authorized to charge any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

_____   _31_ _August_ _2007_
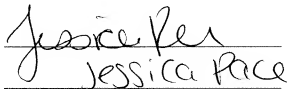Joseph V. Gamberdell, Jr.   Date
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[8] CLAIM APPENDIX

21.   A wireless multimedia messaging method comprising:

receiving by a messaging server content including a streamable media component and information describing the streamable media component;

sending the information describing the streamable media component from the messaging server to a recipient wireless terminal; and

forming a streaming session between the messaging server and the recipient wireless terminal, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal.

22.   A method according to claim 21, wherein the messaging server receives the streamable media component and the information describing the streamable media component from a sending terminal.

23.   A method according to claim 21, wherein the messaging server receives the streamable media component and the information describing the streamable media component in separate messages.

24.   A method according to claim 21, wherein the content includes at least one non-streamable component.

25.   A method according to claim 21, wherein the streaming session is formed under one of the following protocols: HTTP and RTSP.

26.   A method according to claim 21, further including generating the streamable media component at a sending terminal.

27.   A method according to claim 26, further including streaming the streamable media component generated at the sending terminal to the messaging server.

28.   A method according to claim 26, wherein the step of sending the information describing the streamable media component from the messaging server to the recipient wireless terminal takes place before generation of the streamable media component is complete.

29.   A method according to claim 21, further including the step of sending a notification message from the messaging server to the recipient wireless terminal to inform the recipient wireless terminal that the content is available for retrieval by the recipient wireless terminal.

30.   A method according to claim 21, further including the step of sending the information describing the streamable media component from the messaging server to the recipient wireless terminal within a notification message.

31.   A method according to claim 29, wherein the streaming session is formed after the recipient wireless terminal has received the notification message.

32.   A method according to claim 31, wherein the streaming session is formed at discretion of the user.

33.   A method according to claim 21, wherein the messaging server comprises a content server, the content server receiving the streamable media component from a sending terminal and transmitting the streamable media component to the recipient wireless terminal.

34.   A method according to claim 21, further including implementing the method as part of a Multimedia Messaging Service (MMS).

35.   A method according to claim 21, further including multicasting the streamable media component to at least one other recipient in addition to the recipient wireless terminal.

36.   A method according to claim 21, wherein the messaging server receives the streamable media component within a multimedia message.

37.   A messaging server accessible to a plurality of terminals, including;

     means for receiving content including a streamable media component and information describing the streamable media component;

     means for sending the information describing the streamable media component from the messaging server to a recipient wireless terminal; and

     means for forming a streaming session with the recipient wireless terminal, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal.

38.   A messaging server according to claim 37, further including means for transmitting the streamable media component in sequential sub-parts to the recipient wireless terminal, during the streaming session.

39.   A messaging server according to claim 37, further including means for transmitting a notification message to the recipient wireless terminal before forming the streaming session.

40.   A messaging server according to claim 37, further including means for receiving the streamable media component and information describing the streamable media component from a sending terminal.

41.   A messaging server according to claim 39, further including a notification server for receiving the information describing the streamable media component from a sending terminal and for sending the information describing the streamable media component to the recipient wireless terminal in the notification message.

42.   A messaging server according to claim 41, further including a content server for receiving the streamable media component from a sending terminal and for transmitting the streamable media component to the recipient wireless terminal.

43.   A messaging server according to claim 37, wherein the means for receiving the content is configured to receive the streamable media component within a multimedia message.

44.   A messaging server according to claim 37, wherein the means for forming the streaming session is configured to form the streaming session under one of the following protocols: HTTP and RTSP.

45.   A system comprising a plurality of terminals including a recipient wireless terminal and a messaging server, the messaging server having:

   means for receiving content including a streamable media component and information describing the streamable media component;

   means for sending the information describing the streamable media component from the messaging server to a recipient wireless terminal; and

means for forming a streaming session with the recipient wireless terminal, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal.

46. A system according to claim 45, further including a sending terminal that includes means for generating the streamable media component.

47. A computer readable medium encoded with a computer program which when executed by a messaging server causes the messaging server to:

receive content including a streamable media component and information describing the streamable media component;

send the information describing the streamable media component to a recipient wireless terminal; and

form a streaming session between the messaging server and the recipient wireless terminal, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal.

48. A wireless messaging device including:

means for receiving wirelessly information describing a message intended for the wireless messaging device from a messaging server, the message including a streamable media component and the information describing the message including information describing the streamable media component; and

means for forming a streaming session with the messaging server for receiving the streamable media component using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component.

49.   A wireless messaging device according to claim 48, further including means for receiving the streamable media component in sequential sub-parts from the messaging server.

50.   A wireless messaging device according to claim 48, further including means for sending a message for another messaging device to the messaging server.

51.   A wireless messaging device according to claim 48, wherein the means for forming the streaming session has been configured to form the streaming session under one of the following protocols: HTTP and RTSP.

52.   A wireless messaging device according to claim 48, further including:

means for receiving a notification message regarding the message; and

wherein the means for forming the streaming session is configured to form the streaming session after receiving the notification message.

53.   A wireless messaging device according to claim 52, further including means for receiving the information describing the streamable media component in the notification message.

54.   A wireless messaging device according to claim 52, wherein the means for forming the streaming session is configured to form the streaming session at the discretion of a user of the wireless messaging device.

55. A method for multimedia messaging in a wireless messaging device, including

receiving wirelessly information describing a message intended for the wireless messaging device from a messaging server, the message including a streamable media component and the information describing the message including information describing the streamable media component;

forming a streaming session with the messaging server for receiving the streamable media component using the information describing the streamable component; and

presenting the streamable media component during the streaming session, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component.

56. A method according to claim 55, wherein the streaming session is formed under one of the following protocols: HTTP and RTSP.

57. A method according to claim 55, further including receiving a notification message notifying that the message is available for retrieval by the recipient wireless terminal from the messaging server.

58. A method according to claim 57, wherein the information describing the streamable media component is received in the notification message.

59. A computer readable medium encoded with a computer program which when executed by a wireless messaging device, causes the wireless messaging device to:

wirelessly receive information describing a message intended for the wireless messaging device from a messaging server, the message including a streamable media component and the information describing the message including information describing the streamable media component;

form a streaming session with the messaging server for receiving the streamable media component using the information describing the streamable component; and

present the streamable media component during the streaming session, wherein the streamable media component is constructed to be presentable by the wireless messaging device while the wireless messaging device is receiving the streamable media component.

[9] EVIDENCE APPENDIX

N/A

[10] RELATED PROCEEDINGS APPENDIX

N/A